



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 7, 1998

Mr. Kevin D. Pagan
Assistant City Attorney
City of McAllen
P.O. Box 220
McAllen, Texas 78505-0220

OR98-1149

Dear Mr. Pagan:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 114862.

The City of McAllen (the "city") received a request to inspect on an "ongoing basis" the name and telephone number of the offenders on traffic citations issued by city police. You have submitted a representative sample of a citation.¹ You ask whether the release of the telephone number implicates the offenders' privacy.

We begin by noting that the Open Records Act does not require a governmental body to comply with a continuing request to supply information on a periodic basis as such information is prepared in the future. *See* Attorney General Opinion JM-48 (1983); Open Records Decision Nos. 476 (1987), 465 (1987). However, as you have submitted a representative sample of the information and asked about its required public disclosure, we will address the public release of the submitted information.

Section 552.101 excepts from required public disclosure information considered to be confidential by law, including information made confidential by judicial decision. This exception applies to information made confidential by the common-law right to privacy.

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Industrial Found. of the S. v. Texas Indus. Accident Bd., 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Information may be withheld under section 552.101 in conjunction with the common-law right to privacy if the information contains highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person and if the information is of no legitimate concern to the public. *See id.* This office has determined that, absent special circumstances, home addresses and telephone numbers are not considered to be a highly intimate or embarrassing fact, notwithstanding the fact that the disclosure could increase the risk of possible intrusion upon the solitude or seclusion of the person in his home. *See Open Records Decision Nos. 455 (1987), 169 (1977).* Thus, we do not believe the home addresses and telephone numbers here are protected from public disclosure based on the common-law right to privacy.

Section 552.130 of the Government Code provides as follows

- (a) Information is excepted from [required public disclosure] if the information relates to:
 - (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state;
 - (2) a motor vehicle title or registration issued by an agency of this state; or
 - (3) a personal identification document issued by an agency of this state or a local agency authorized to issue an identification document.
- (b) Information described by Subsection (a) may be released only if, and in the manner, authorized by Chapter 730, Transportation Code.

Although the requestor here states that he only seeks "the name and telephone number of the offender," since you submitted a traffic citation as a representative sample of the requested information, we note that the city may not release to the public drivers' license numbers based on section 552.130(1) of the Government Code.

Finally, you ask whether a computer-generated print-out containing the data from the original citation is sufficient to comply with the request or is the city required to produce the original or each and every citation. We suggest that you seek clarification from the requestor on this matter. *See Gov't Code § 552.222(a)* (permitting government body to seek clarification of unclear request). A governmental body does not comply with the Open Records Act by releasing to the requestor another record as a substitute for any specifically requested record, unless the requestor agrees to the substitution. *See Open Records Decision No. 606 (1992).*

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script that reads "Kay Hastings".

Kay Hastings
Assistant Attorney General
Open Records Division

KHH/rho

Ref.: ID# 114862

Enclosure: Submitted document

cc: Mr. Michael Wansey
121 West 14th
Weslaco, Texas 78596
(w/o enclosure)